

Remarks

After entry of the amendment, Claims 1-18 will be pending, with claims 9 and 10 withdrawn.

All rejections are moot by amendment to the independent claims. The amendments in Claims 1 and 2 are disclosed on page 7, lines 25-30 and on page 8, lines 1-2 of the specification. The amendments in Claims 3-8 are to conform to US practice. New Claims 11-18 are introduced to claim features that the Applicants wish to protect. No new matter is introduced into the claims by these amendments.

Claims 1-3 were previously rejected as obvious over McTeigue et al. (US Patent No. 7,223,421) in light of Lopez (US Patent No. 3,607,364), Doelker et al. (Drug Development and Industrial Pharmacy 1995, 21(6) pg 643-661), The USP Dictionary of U.S. Adopted Names and International Drug Names (USAN), and the Merck Index. Applicants need not comment on the rejection, but wish to highlight several points. First, McTeigue et al. disclose a process for applying a continuous polymeric coating over a core of particles. The coating solution comprises over 75 weight percent of acetone, based on the total weight of the coating solution (*column 6, lines 31-37*). In contrast, in the Applicants' process the liquid diluent is not acetone. Moreover, as claimed, the amount of other additives in the Applicants' fluid composition (other than the surfactant i) and the liquid diluent ii)), if present, is only up to 25 weight percent, based upon the total weight of the fluid composition.

Second, the compositions which are disclosed by Lopez, particularly in examples 1 to 3, comprise considerably more than 25 weight percent of additives (sugar, gelatin, acacia gum, talc, terra alba, calcium carbonate, C.M.C. and wheat flour) in addition to liquid diluents (water or alcohol) and surfactant (Pluronic F-68). In Lopez' Example 1 the sum of sugar, talc and terra alba is as high as 75 percent, based on the total weight of the coating medium. In Lopez' Example 2 the sum of sugar and calcium carbonate is 65 percent. In

Lopez' Example 3 81.5 weight percent of a 65% sugar syrup is included, which corresponds to 53 weight percent of undiluted table sugar. Lopez et al. teach coating of solid particles with a high amount of sugar in a labor-intensive process. In Lopez' examples 15 or even more coats are applied to the pharmaceutical solid form (*column 3, lines 51-53 and column 4, lines 10-11 and 37-38*). Lopez' teaching to use a high amount of solid additives for the preparation of the foamed sugar solution would teach away from the presently claimed fluid composition comprising the claimed surfactant i), the liquid diluent ii) and no more than 25 weight percent of other additives, if any.

Thus, if the coating solution disclosed by McTeigue could be modified by using the foaming technique of Lopez as suggested by the Examiner, an acetone-based coating composition would result. A large amount of sugar would be included in the coating solution disclosed by McTeigue in view of Lopez' teaching of making use of a large amount of sugar in his foaming technique. Such combined teaching is far removed from the process as claimed in the amended claims.

Applicants opt to wait until the claims are in otherwise allowable form before tendering a terminal disclaimer, should the double patenting rejection be reapplied.

If the Examiner has any questions, she is encouraged to contact the undersigned.

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